

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 Milton Birch and Renee Birch,

5 Plaintiffs

6 v.

7 Solicitor General; Department of Justice; and  
8 Internal Revenue Service,

9 Defendants

2:15-cv-02184-JAD-NJK

**Order Granting Unopposed  
Motion to Dismiss**

[ECF No. 12]

10  
11 Milton and Renee Birch filed their “Complaint for Violation of Federal Law, Abuse of  
12 Authority, and Violation of Due Process” in November of 2015.<sup>1</sup> The target and nature of their  
13 claims is difficult to decipher, but it appears that they challenge some action taken against them  
14 by the Internal Revenue Service.

15 Defendants moved to dismiss the complaint, arguing that they have not been properly  
16 served, that this court lacks jurisdiction over this case because the United States has not waived  
17 its sovereign immunity for this suit, and that the plaintiffs have stated no plausible claim.<sup>2</sup>  
18 Plaintiffs were also served with a minute order explaining that their failure to oppose the motion  
19 within 14 days of service “shall constitute a consent to the granting of the motion” under this  
20 district’s Local Rule 7-2(d). The minute order further explained that if the plaintiffs do “not  
21 agree that [their] claims should be dismissed, [they] must file and serve points and authorities in  
22 opposition within 14 days from the date” they were served with the motion.<sup>3</sup>

23 Plaintiff’s response was due 11 days ago, and none was filed. I thus treat plaintiffs’  
24 failure to oppose this motion [ECF No. 12] as consent to granting it under L.R. 7-2(d).  
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27 <sup>1</sup> ECF No. 1.

28 <sup>2</sup> ECF No. 12.

<sup>3</sup> ECF No. 13.

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This action is DISMISSED for lack of service, lack of jurisdiction, and failure to state a claim.

DATED: May 31, 2017

Dorsey  
District 1